

HOUSE BILL 349

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO LICENSURE; AMENDING AND ENACTING NEW SECTIONS OF
THE NURSING PRACTICE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-3-3 NMSA 1978 (being Laws 1991,
Chapter 190, Section 2, as amended) is amended to read:

"61-3-3. DEFINITIONS.--As used in the Nursing Practice
Act:

A. "advanced practice" means the practice of

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professional registered nursing by a registered nurse who has been prepared through additional formal education as provided in Sections 61-3-23.2 through 61-3-23.4 NMSA 1978 to function beyond the scope of practice of professional registered nursing, including certified nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists;

B. "advanced practice registered nurse" means a certified nurse practitioner, certified registered nurse anesthetist or clinical nurse specialist who has completed advanced education and clinical training to obtain
HHHC→board←HHHC HHHC→national←HHHC certification;

C. "anesthesia" means a state of controlled, temporary loss of sensation or awareness that is induced for medical purposes. "Anesthesia" includes inducing analgesia, muscle relaxation, amnesia and unconsciousness;

[B-] D. "board" means the board of nursing;

[G-] E. "certified hemodialysis technician" means a person who is certified by the board to assist in the direct care of a patient undergoing hemodialysis, under the supervision and at the direction of a registered nurse or a licensed practical nurse, according to the rules adopted by the board;

[D-] F. "certified medication aide" means a person who is certified by the board to administer medications under the supervision and at the direction of a registered nurse or a

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licensed practical nurse, according to the rules adopted by the board;

[E-] G. "certified nurse practitioner" means a registered nurse who is licensed by the board for advanced practice as a certified nurse practitioner and whose name and pertinent information are entered on the list of certified nurse practitioners maintained by the board;

[F-] H. "certified registered nurse anesthetist" means a registered nurse who is licensed by the board for advanced practice as a certified registered nurse anesthetist and whose name and pertinent information are entered on the list of certified registered nurse anesthetists maintained by the board;

[G-] I. "clinical nurse specialist" means a registered nurse who is licensed by the board for advanced practice as a clinical nurse specialist and whose name and pertinent information are entered on the list of clinical nurse specialists maintained by the board;

[H-] J. "collaboration" means the cooperative working relationship with another health care provider in the provision of patient care, and such collaborative practice includes the discussion of patient diagnosis and cooperation in the management and delivery of health care;

[I-] K. "licensed practical nurse" means a nurse who practices licensed practical nursing and whose name and

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pertinent information are entered in the register of licensed practical nurses maintained by the board or a nurse who practices licensed practical nursing pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact;

[J-] L. "licensed practical nursing" means the practice of a directed scope of nursing requiring basic knowledge of the biological, physical, social and behavioral sciences and nursing procedures, which practice is at the direction of a registered nurse, physician or dentist licensed to practice in this state. This practice includes but is not limited to:

- (1) contributing to the assessment of the health status of individuals, families and communities;
- (2) participating in the development and modification of the plan of care;
- (3) implementing appropriate aspects of the plan of care commensurate with education and verified competence;
- (4) collaborating with other health care professionals in the management of health care; and
- (5) participating in the evaluation of responses to interventions;

[K-] M. "Nurse Licensure Compact" means the agreement entered into between New Mexico and other jurisdictions permitting the practice of professional

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registered nursing or licensed practical nursing pursuant to a multistate licensure privilege;

[~~H-~~] N. "nursing diagnosis" means a clinical judgment about individual, family or community responses to actual or potential health problems or life processes, which judgment provides a basis for the selection of nursing interventions to achieve outcomes for which the person making the judgment is accountable;

[~~M-~~] O. "practice of nursing" means assisting individuals, families or communities in maintaining or attaining optimal health, assessing and implementing a plan of care to accomplish defined goals and evaluating responses to care and treatment. This practice is based on specialized knowledge, judgment and nursing skills acquired through educational preparation in nursing and in the biological, physical, social and behavioral sciences and includes but is not limited to:

- (1) initiating and maintaining comfort measures;
- (2) promoting and supporting optimal human functions and responses;
- (3) establishing an environment conducive to well-being or to the support of a dignified death;
- (4) collaborating on the health care regimen;
- (5) administering medications and performing

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treatments prescribed by a person authorized in this state or in any other state in the United States to prescribe them;

(6) recording and reporting nursing observations, assessments, interventions and responses to health care;

(7) providing counseling and health teaching;

(8) delegating and supervising nursing interventions that may be performed safely by others and are not in conflict with the Nursing Practice Act; and

(9) maintaining accountability for safe and effective nursing care;

[N.] P. "professional registered nursing" means the practice of the full scope of nursing requiring substantial knowledge of the biological, physical, social and behavioral sciences and of nursing theory and may include advanced practice pursuant to the Nursing Practice Act. This practice includes [~~but is not limited to~~]:

(1) assessing the health status of individuals, families and communities;

(2) establishing a nursing diagnosis;

(3) establishing goals to meet identified health care needs;

(4) developing a plan of care;

(5) determining nursing intervention to implement the plan of care;

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(6) implementing the plan of care commensurate with education and verified competence;

(7) evaluating responses to interventions;

(8) teaching based on the theory and practice of nursing;

(9) managing and supervising the practice of nursing;

(10) collaborating with other health care professionals in the management of health care; and

(11) conducting nursing research;

[Θ-] Q. "registered nurse" means a nurse who practices professional registered nursing and whose name and pertinent information are entered in the register of licensed registered nurses maintained by the board or a nurse who practices professional registered nursing pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact;

[P-] R. "scope of practice" means the parameters within which nurses practice based upon education, experience, licensure, certification and expertise; and

[Q-] S. "training program" means an educational program approved by the board."

SECTION 2. Section 61-3-5.1 NMSA 1978 (being Laws 2001, Chapter 137, Section 14) is amended to read:

"61-3-5.1. TEMPORARY LICENSURE.--An applicant for nurse
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licensure pursuant to the Nursing Practice Act may be issued a temporary license for a period not to exceed six months or for a period of time necessary for the board to ensure that the applicant has met the licensure requirements set out in that act, whichever is less. Candidates for temporary licensure are nurses who HHHC→:←HHHC

HHHC→A. cannot obtain documentation of good standing;

B.←HHHC have not practiced for four years or longer and are seeking license reactivation HHHC→; ~~or~~←HHHC

HHHC→C. are seeking license reinstatement upon completion of disciplinary constraints←HHHC ."

SECTION 3. Section 61-3-6 NMSA 1978 (being Laws 1973, Chapter 149, Section 2, as amended) is amended to read:

"61-3-6. ADMINISTRATION OF ANESTHETICS.--It is unlawful for any person, other than a person licensed in New Mexico to practice medicine, osteopathy or dentistry or a currently licensed certified registered nurse anesthetist, to administer [~~anesthetics~~] anesthesia to any person. Nothing in this section prohibits a person currently licensed pursuant to the Nursing Practice Act [~~from using hypnosis or~~] from administering local anesthetics, [~~or~~] moderate sedation, analgesia or an anxiolytic."

SECTION 4. Section 61-3-8 NMSA 1978 (being Laws 1968, Chapter 44, Section 5, as amended by Laws 1991, Chapter 189,

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Section 3 and also by Laws 1991, Chapter 190, Section 5) is amended to read:

"61-3-8. BOARD CREATED--MEMBERS--QUALIFICATIONS--TERMS--VACANCIES--REMOVAL.--

A. There is created a [~~seven-member~~] nine-member "board of nursing". The board shall consist of [~~four~~] ~~HHHC~~→six←~~HHHC~~ ~~HHHC~~→five←~~HHHC~~ licensed registered nurses, one ~~HHHC~~→preferably←~~HHHC~~ ~~HJC~~→a←~~HJC~~ licensed practical nurse, and three members who shall represent the public and shall not have been licensed as registered or licensed practical nurses, nor shall the public members have any significant financial interest, direct or indirect, in the profession regulated. Not more than two board members shall be appointed from any one county, and not more than two registered nurse members shall be from any one field of nursing. Members of the board shall be appointed by the governor for staggered terms of four years each. Nurse members shall be appointed from lists submitted to the governor by any generally recognized organization of nurses in this state. Appointments shall be made in such manner that the terms of no more than two board members expire on July 1 of each year. Vacancies shall be filled by appointment by the governor for the unexpired term within sixty days of the vacancy. Board members shall serve until their successors have been appointed and qualified.

B. Members of the board shall be citizens of the

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United States and residents of this state. Registered nurse members shall be licensed in this state, shall have had, since graduation, at least five years' experience in nursing, shall be currently engaged in professional nursing and shall have been actively engaged in professional nursing for at least three years immediately preceding appointment or reappointment. The licensed practical nurse member shall be licensed in this state, shall have been graduated from an approved licensed practical nursing education program, shall have been licensed by examination, shall have had at least five years' experience since graduation, shall be currently engaged in licensed practical nursing and shall have been actively engaged in licensed practical nursing for at least three years immediately preceding appointment or reappointment.

C. No board member shall serve more than two full or partial terms, consecutive or otherwise.

D. Any board member failing to attend seventy percent of meeting days annually, either regular or special, shall automatically be removed as a member of the board.

E. The governor may remove any member from the board for neglect of any duty required by law, for incompetency or for unprofessional or dishonorable conduct, in accordance with regulations prescribed by the board.

F. In the event of a vacancy on the board for any reason, the secretary of the board shall immediately notify the

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governor, the board members and any generally recognized nursing organization of the vacancy, the reason for its occurrence and the action taken by the board, so as to expedite the appointment of a new board member."

SECTION 5. Section 61-3-10 NMSA 1978 (being Laws 1968, Chapter 44, Section 7, as amended) is amended to read:

"61-3-10. POWERS--DUTIES.--The board:

A. shall promulgate rules in accordance with the State Rules Act as necessary to enable it to carry into effect the provisions of the Nursing Practice Act and to maintain high standards of practice;

B. shall prescribe standards and approve curricula for educational programs preparing persons for licensure under the Nursing Practice Act;

C. shall provide for surveys of educational programs preparing persons for licensure under the Nursing Practice Act;

D. shall grant, deny or withdraw approval from educational programs for failure to meet prescribed standards, if a majority of the board concurs in the decision;

E. shall provide for the examination, licensing and renewal of licenses of applicants;

F. shall conduct hearings upon charges relating to discipline of a licensee or nurse not licensed to practice in New Mexico who is permitted to practice professional registered

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nursing or licensed practical nursing in New Mexico pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact;

G. shall conduct hearings upon charges related to an applicant or discipline of a licensee or the denial, suspension or revocation of a license in accordance with the procedures of the Uniform Licensing Act;

H. shall cause the prosecution of persons violating the Nursing Practice Act and have the power to incur such expense as is necessary for the prosecution;

I. shall keep a record of all proceedings;

J. shall make an annual report to the governor;

K. shall appoint and employ a qualified registered nurse, who shall not be a member of the board, to serve as executive officer to the board, and the board shall define the duties and responsibilities of the executive officer except that the power to grant, deny or withdraw approval for schools of nursing or to revoke, suspend or withhold a license authorized by the Nursing Practice Act shall not be delegated by the board;

L. shall provide for such qualified assistants as may be necessary to carry out the provisions of the Nursing Practice Act. Such employees shall be paid a salary commensurate with their duties;

M. shall, for the purpose of protecting the health

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and well-being of residents of New Mexico and promoting current nursing knowledge and practice, promulgate rules establishing continuing education requirements as a condition of license renewal and shall study methods of monitoring continuing competence;

N. may appoint advisory committees consisting of at least one member who is a board member and at least two members who are expert in the pertinent field of health care to assist it in the performance of its duties. Committee members may be reimbursed as provided in the Per Diem and Mileage Act;

O. may promulgate rules designed to maintain an inactive status listing for registered nurses and licensed practical nurses;

P. may promulgate rules to regulate the advanced practice of professional registered nursing and expanded practice of licensed practical nursing;

Q. shall license qualified certified nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists;

R. shall register nurses not licensed to practice in New Mexico who are permitted to practice professional registered nursing or licensed practical nursing in New Mexico pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact;

S. shall promulgate rules establishing standards

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for authorizing prescriptive authority to certified nurse practitioners, clinical nurse specialists and certified registered nurse anesthetists; ~~and~~

T. shall determine by rule the states and territories of the United States or the District of Columbia from which it will not accept an applicant for expedited licensure and shall determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of unapproved and approved licensing jurisdictions on the board's website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted;

U. shall promulgate rules creating a retired registered nurse license category without a licensing fee;

V. shall ensure that New Mexico nursing data collected by the board is owned by the board;

W. shall ensure a system that coordinates HHHC → updates and ensures that the core curricula of every state-supported school of nursing is accepted for degree credit at every other state-supported school of nursing ← HHHC HHHC → a clinical placement process ← HHHC ; and

X. shall allow a nurse applying for a first-time license or a renewal license to request a single state license."

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SECTION 6. Section 61-3-16 NMSA 1978 (being Laws 1968, Chapter 44, Section 13, as amended) is amended to read:

"61-3-16. FEES FOR LICENSURE AS A REGISTERED NURSE.--

A. Except as provided in Section 61-1-34 NMSA 1978, an applicant for licensure as a registered nurse shall pay the following nonrefundable fees:

[A.] (1) for licensure without examination, a fee not to exceed [~~one hundred fifty dollars (\$150)~~] two hundred dollars (\$200);

[B.] (2) for licensure by examination when the examination is the first for the applicant in this state, a fee not to exceed one hundred fifty dollars (\$150);

[C.] (3) for licensure by examination when the examination is other than the first examination, a fee not to exceed sixty dollars (\$60.00); and

[D.] (4) for initial licensure as a certified nurse practitioner, certified registered nurse anesthetist or clinical nurse specialist, a fee not to exceed [~~one hundred dollars (\$100)~~] two hundred dollars (\$200). This fee shall be in addition to the fee paid for registered nurse licensure.

B. The board may waive the fee for an initial license for a registered nurse."

SECTION 7. Section 61-3-22 NMSA 1978 (being Laws 1968, Chapter 44, Section 19, as amended) is amended to read:

"61-3-22. FEES FOR LICENSURE AS A LICENSED PRACTICAL

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NURSE.--

A. Except as provided in Section 61-1-34 NMSA 1978, an applicant for licensure as a licensed practical nurse shall pay the following nonrefundable fees:

~~[A.]~~ (1) for licensure without examination, a fee not to exceed one hundred fifty dollars (\$150);

~~[B.]~~ (2) for licensure by examination when the examination is the first for the applicant in this state, a fee not to exceed one hundred fifty dollars (\$150); and

~~[C.]~~ (3) for licensure by examination when the examination is other than the first examination, a fee not to exceed sixty dollars (\$60.00) for each examination.

B. The board may waive the fee for an initial license for a licensed practical nurse."

SECTION 8. Section 61-3-23.2 NMSA 1978 (being Laws 1991, Chapter 190, Section 14, as amended) is amended to read:

"61-3-23.2. CERTIFIED NURSE PRACTITIONER--
QUALIFICATIONS--PRACTICE--EXAMINATION--ENDORSEMENT--EXPEDITED
LICENSURE.--

A. The board may license for advanced practice as a certified nurse practitioner an applicant who furnishes evidence satisfactory to the board that the applicant:

- (1) is a registered nurse;
- (2) has successfully completed a program for the education and preparation of nurse practitioners; provided

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that, if the applicant is initially licensed by the board or a board in another jurisdiction after January 1, 2001, the program shall be at the master's level or higher;

(3) has successfully completed the national certifying examination in the applicant's specialty area; and

(4) is certified by a national nursing organization.

B. Certified nurse practitioners may:

(1) perform an advanced practice that is beyond the scope of practice of professional registered nursing;

(2) practice independently and make decisions regarding health care needs of the individual, family or community and carry out health regimens, including the prescription and distribution of dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act; and

(3) serve as a primary acute, chronic long-term and end-of-life health care provider and as necessary collaborate with licensed medical doctors, osteopathic physicians or podiatrists.

C. Certified nurse practitioners who have fulfilled requirements for prescriptive authority may prescribe in accordance with rules [~~guidelines and formularies for individual certified nurse practitioners~~] promulgated by the

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board.

D. Certified nurse practitioners who have fulfilled requirements for prescriptive authority may distribute to their patients dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act.

E. Certified nurse practitioners licensed by the board on and after December 2, 1985 shall successfully complete a national certifying examination and shall maintain national professional certification in their specialty area. Certified nurse practitioners licensed by a board prior to December 2, 1985 are not required to sit for a national certification examination or be certified by a national organization.

F. The board shall issue an expedited license to an applicant without an examination if the person has been duly licensed as a certified nurse practitioner in another licensing jurisdiction and is in good standing with the licensing board in that licensing jurisdiction. The board shall expedite the issuance of the license in accordance with Section 61-1-31.1 NMSA 1978 within thirty days. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass

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an examination before applying for license renewal. An applicant licensed under the laws of a territory or foreign country shall demonstrate proficiency in English."

SECTION 9. Section 61-3-23.3 NMSA 1978 (being Laws 1991, Chapter 190, Section 15, as amended) is amended to read:

"61-3-23.3. CERTIFIED REGISTERED NURSE ANESTHETIST--QUALIFICATIONS--LICENSURE--PRACTICE--ENDORSEMENT--EXPEDITED LICENSURE.--

A. The board may license for advanced practice as a certified registered nurse anesthetist an applicant who furnishes evidence satisfactory to the board that the applicant:

(1) is a registered nurse;

(2) has successfully completed a nurse anesthesia education program accredited by the council on accreditation of nurse anesthesia educational programs; provided that, if the applicant is initially licensed by the board or a board in another licensing jurisdiction after January 1, 2001, the program shall be at a master's level or higher; and

(3) is certified by the national board of certification and recertification for nurse anesthetists.

B. A certified registered nurse anesthetist may provide preoperative, intraoperative and postoperative anesthesia care and related services, including ordering of

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diagnostic tests, in accordance with the current American association of nurse anesthetists' guidelines for nurse anesthesia practice.

C. Certified registered nurse anesthetists shall function in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico pursuant to the Dental Health Care Act, the Medical Practice Act or the Podiatry Act. The certified registered nurse anesthetist shall collaborate with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. As used in this subsection, "collaboration" means the process in which each health care provider contributes the health care provider's respective expertise. "Collaboration" includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

D. A certified registered nurse anesthetist who has fulfilled the requirements for prescriptive authority in the area of anesthesia practice is authorized to prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the emergency procedures, perioperative care or perinatal care environments. Dangerous

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drugs and controlled substances, pursuant to the Controlled Substances Act, that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act may be prescribed and administered.

E. A certified registered nurse anesthetist who has fulfilled the requirements for prescriptive authority in the area of anesthesia practice may prescribe in accordance with rules of the board. ~~[The board shall adopt rules concerning a prescriptive authority formulary for certified registered nurse anesthetists that shall be based on the scope of practice of certified registered nurse anesthetists. The board, in collaboration with the New Mexico medical board, shall develop the formulary. Certified registered nurse anesthetists who prescribe shall do so in accordance with the prescriptive authority formulary.]~~

F. The board shall issue an expedited license to an applicant without an examination if the person has been duly licensed as a certified registered nurse anesthetist in another licensing jurisdiction and is in good standing with the licensing board in that licensing jurisdiction. The board shall expedite the issuance of the license in accordance with Section 61-1-31.1 NMSA 1978 within thirty days. If the board issues an expedited license to a person whose prior licensing

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jurisdiction did not require examination, the board may require that person to pass an examination before applying for license renewal. An applicant licensed under the laws of a territory or foreign country shall demonstrate proficiency in English.

G. A health care facility may adopt policies relating to the providing of anesthesia care.

H. A certified registered nurse anesthetist licensed by the board shall maintain this certification with the national board of certification and recertification for nurse anesthetists."

SECTION 10. Section 61-3-23.4 NMSA 1978 (being Laws 1991, Chapter 190, Section 16, as amended) is amended to read:

"61-3-23.4. CLINICAL NURSE SPECIALIST--QUALIFICATIONS--ENDORSEMENT--EXPEDITED LICENSURE.--

A. The board may license for advanced practice as a clinical nurse specialist an applicant who furnishes evidence satisfactory to the board that the applicant:

- (1) is a registered nurse;
 - (2) has a master's degree or doctoral degree in a defined clinical nursing specialty;
 - (3) has successfully completed a national certifying examination in the applicant's area of specialty;
- and
- (4) is certified by a national nursing organization.

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B. Clinical nurse specialists may:

(1) perform an advanced practice that is beyond the scope of practice of professional registered nursing;

(2) make independent decisions in a specialized area of nursing practice using expert knowledge regarding the health care needs of the individual, family and community, collaborating as necessary with other members of the health care team when the health care need is beyond the scope of practice of the clinical nurse specialist; and

(3) carry out therapeutic regimens in the area of specialty practice, including the prescription and distribution of dangerous drugs.

C. A clinical nurse specialist who has fulfilled the requirements for prescriptive authority in the area of specialty practice is authorized to prescribe, administer and distribute therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the scope of specialty practice, including controlled substances pursuant to the Controlled Substances Act that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act.

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D. Clinical nurse specialists who have fulfilled the requirements for prescriptive authority in the area of specialty practice may prescribe in accordance with rules ~~[guidelines and formularies based on scope of practice and clinical setting for individual clinical nurse specialists]~~ promulgated by the board.

E. Clinical nurse specialists licensed by the board shall maintain certification in their specialty area.

F. The board shall issue an expedited license to an applicant without an examination if the person has been duly licensed as a clinical nurse specialist in another licensing jurisdiction and is in good standing with the licensing board in that licensing jurisdiction. The board shall expedite the issuance of the license in accordance with Section 61-1-31.1 NMSA 1978 within thirty days. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass an examination before applying for license renewal. An applicant licensed under the laws of a territory or foreign country shall demonstrate proficiency in English."

SECTION 11. Section 61-3-24 NMSA 1978 (being Laws 1968, Chapter 44, Section 20, as amended) is amended to read:

"61-3-24. RENEWAL OF LICENSES.--

A. Any person licensed pursuant to the provisions of the Nursing Practice Act who intends to continue practice

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shall renew the license every two years by the end of the applicant's renewal month and shall show proof of continuing education as required by the board except when on active military duty during a military action.

B. Upon receipt of the application and, except as provided in Section 61-1-34 NMSA 1978, a fee, in an amount not to exceed [~~one hundred ten dollars (\$110)~~] one hundred fifty dollars (\$150), a license valid for two years shall be issued.

C. Upon receipt of the application and any required fee, the board shall verify the licensee's eligibility for continued licensure and issue to the applicant a renewal license for two years.

D. A person who allows a license to lapse shall be reinstated by the board on payment of any required fee for the current two years plus a reinstatement fee not to exceed two hundred dollars (\$200), provided that all other requirements are met."

SECTION 12. Section 61-3-28 NMSA 1978 (being Laws 1968, Chapter 44, Section 24, as amended) is amended to read:

"61-3-28. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW--APPLICATION OF UNIFORM LICENSING ACT--LIMITATION.--

A. In accordance with the procedures contained in the Uniform Licensing Act, the board may deny, revoke or suspend any license held or applied for under the Nursing Practice Act, reprimand or place a licensee on probation or

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deny, limit or revoke the multistate licensure privilege of a nurse desiring to practice or practicing professional registered nursing or licensed practical nursing as provided in the Nurse Licensure Compact upon grounds that the licensee, applicant or nurse:

- (1) is guilty of fraud or deceit in procuring or attempting to procure a license or certificate of registration;
- (2) is convicted of a felony;
- (3) is unfit or incompetent;
- (4) ~~[is intemperate or]~~ is addicted to the use of habit-forming ~~[drugs]~~ substances;
- (5) is mentally incompetent;
- (6) is guilty of unprofessional conduct as defined by the rules and regulations adopted by the board pursuant to the Nursing Practice Act;
- (7) has willfully or repeatedly violated any provisions of the Nursing Practice Act, including any rule or regulation adopted by the board pursuant to that act;
- (8) was licensed to practice nursing in any jurisdiction, territory or possession of the United States or another country and was the subject of disciplinary action as a licensee for acts similar to acts described in this subsection. A certified copy of the record of the jurisdiction, territory or possession of the United States or another country taking

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the disciplinary action is conclusive evidence of the action;
or

(9) uses conversion therapy on a minor.

B. Disciplinary proceedings may be instituted by any person, shall be by complaint and shall conform with the provisions of the Uniform Licensing Act. Any party to the hearing may obtain a copy of the hearing record upon payment of costs for the copy.

C. Any person filing a complaint shall be immune from liability arising out of civil action if the complaint is filed with reasonable care.

D. The board shall not initiate a disciplinary action more than two years after the date that it receives a complaint.

E. The time limitation contained in Subsection D of this section shall not be tolled by any civil or criminal litigation in which the licensee or applicant is a party, arising substantially from the same facts, conduct, transactions or occurrences that would be the basis for the board's disciplinary action.

F. The board may recover the costs associated with the investigation and disposition of a disciplinary proceeding from the nurse who is the subject of the proceeding if the nurse is practicing professional registered nursing or licensed practical nursing pursuant to a multistate licensure privilege

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as provided in the Nurse Licensure Compact.

G. As used in this section:

(1) "conversion therapy" means any practice or treatment that seeks to change a person's sexual orientation or gender identity, including any effort to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward persons of the same sex.

"Conversion therapy" does not mean:

(a) counseling or mental health services that provide acceptance, support and understanding of a person without seeking to change gender identity or sexual orientation; or

(b) mental health services that facilitate a person's coping, social support, sexual orientation or gender identity exploration and development, including an intervention to prevent or address unlawful conduct or unsafe sexual practices, without seeking to change gender identity or sexual orientation;

(2) "gender identity" means a person's self-perception, or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical characteristics that are in accord or opposed to the person's physical anatomy, chromosomal sex or sex at birth;

(3) "minor" means a person under eighteen

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years of age; and

(4) "sexual orientation" means
heterosexuality, homosexuality or bisexuality, whether actual
or perceived."

SECTION 13. Section 61-3-29.1 NMSA 1978 (being Laws 1987,
Chapter 285, Section 1, as amended) is amended to read:

"61-3-29.1. [~~DIVERSION~~] ALTERNATIVE TO DISCIPLINE PROGRAM
CREATED--ADVISORY COMMITTEE--RENEWAL FEE--REQUIREMENTS--
IMMUNITY FROM CIVIL ACTIONS.--

A. The board shall establish [~~a diversion~~] an
alternative to discipline program to rehabilitate nurses whose
competencies may be impaired because of the abuse of drugs or
alcohol so that nurses can be treated and returned to or
continue the practice of nursing in a manner that will benefit
the public. The intent of the [~~diversion~~] alternative to
discipline program is to develop a voluntary alternative to
traditional disciplinary actions and an alternative to lengthy
and costly investigations and administrative proceedings
against such nurses, at the same time providing adequate
safeguards for the public.

B. The board shall appoint one or more evaluation
committees, hereinafter called "regional advisory committees",
each of which shall be composed of members with expertise in
chemical dependency. At least one member shall be a registered
nurse. No current member of the board shall be appointed to a

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regional advisory committee. The executive officer of the board or the executive officer's designee shall be the liaison between each regional advisory committee and the board.

C. Each regional advisory committee shall function under the direction of the board and in accordance with ~~[regulations]~~ rules of the board. The ~~[regulations]~~ rules shall include directions to a regional advisory committee to:

(1) establish criteria for continuance in the program;

(2) develop a written ~~[diversion]~~ alternative to discipline program contract to be approved by the board that sets forth the requirements that shall be met by the nurse and the conditions under which the ~~[diversion]~~ alternative to discipline program may be successfully completed or terminated;

(3) recommend to the board in favor of or against each nurse's discharge from the ~~[diversion]~~ alternative to discipline program;

(4) evaluate each nurse's progress in recovery and compliance with the nurse's ~~[diversion]~~ alternative to discipline program contract;

(5) report violations to the board;

(6) submit an annual report to the board; and

(7) coordinate educational programs and research related to chemically dependent nurses.

D. The board may increase the renewal fee for each

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nurse in the state not to exceed twenty dollars (\$20.00) for the purpose of implementing and maintaining the [~~diversion~~] alternative to discipline program.

E. Files of nurses in the [~~diversion~~] alternative to discipline program shall be [~~maintained in the board office and shall be~~] confidential except as required to be disclosed pursuant to the Nurse Licensure Compact, when used to make a report to the board concerning a nurse who is not cooperating and complying with the [~~diversion~~] alternative to discipline program contract or, with written consent of a nurse, when used for research purposes as long as the nurse is not specifically identified. However, the files shall be subject to discovery or subpoena. The confidential provisions of this subsection are of no effect if the nurse admitted to the [~~diversion~~] alternative to discipline program leaves the state prior to the completion of the program.

F. A person making a report to the board or to a regional advisory committee regarding a nurse suspected of practicing nursing while [~~habitually intemperate or~~] addicted to the use of habit-forming [~~drugs~~] substances or making a report of a nurse's progress or lack of progress in rehabilitation shall be immune from civil action for defamation or other cause of action resulting from such reports if the reports are made in good faith and with some reasonable basis in fact.

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G. A person admitted to the [~~diversion~~] alternative to discipline program for chemically dependent nurses who fails to comply with the provisions of this section or with the rules and regulations adopted by the board pursuant to this section or with the written [~~diversion~~] alternative to discipline program contract or with any amendments to the written [~~diversion~~] alternative to discipline program contract may be subject to disciplinary action in accordance with Section 61-3-28 NMSA 1978."

SECTION 14. A new section of the Nursing Practice Act is enacted to read:

"[NEW MATERIAL] EXPUNGEMENT OF DISCIPLINARY ACTION.--

A. The board by rule shall adopt a system of expungement for nurses disciplined under this section.

B. To be eligible for expungement, a nurse shall successfully complete:

(1) the requirements of the disciplinary order imposed by the board;

(2) the terms of any settlement; or

(3) any alternative dispute resolution.

C. The board may condition the availability of expungement on the:

(1) absence of repeat offenses for a defined term of sixteen years; or

(2) seriousness of the offense as determined

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by the sanction level of prior discipline.

D. Disciplinary orders and all related investigatory documents, including previously filed formal charges expunged from a nurse's record, are void and are not subject to disclosure, discovery, subpoena or other means of legal compulsion for release and are not subject to public disclosure pursuant to the Inspection of Public Records Act.

E. A nurse whose disciplinary record has been expunged may state in response to inquiry that expunged disciplinary records do not exist.

F. If the board determines the cost of expungement justifies the imposition of fees on eligible nurses, the board shall not impose cost-prohibitive fees for expungement.

G. The board shall tender a report of expungement to the national practitioner data bank for nurses who qualify for expungement under this section and board rules."

SECTION 15. A new section of the Nursing Practice Act is enacted to read:

"[NEW MATERIAL] USE OF "NURSE" TITLE.--Only a person who is issued a license as a registered nurse, licensed practical nurse, certified nurse practitioner, clinical nurse specialist or certified registered nurse anesthetist under the Nursing Practice Act may use the word "nurse" in connection with the person's name."